



DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
HOME INSPECTION ADVISORY COMMITTEE
STATUTES AND REGULATIONS

AS OF DECEMBER 2002

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TABLE OF CONTENTS

UNIFORM ENFORCEMENT ACT	2
HOME INSPECTION ADVISORY COMMITTEE STATUTES	19
HOME INSPECTION ADVISORY COMMITTEE REGULATIONS	24
UNIFORM REGULATIONS	52

CHAPTER 1
GENERAL PROVISIONS

ARTICLE 1. GENERAL PROVISIONS RELATING TO ALL PROFESSIONS AND OCCUPATIONS AFFECTED BY THIS SUBTITLE

45:1-1. Persons entitled to practice, etc. under former laws unaffected

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

ARTICLE 2. GENERAL PROVISIONS RELATING TO CERTAIN STATE BOARDS OF REGISTRATION AND EXAMINATION

45:1-2. Repealed by L.1971, c. 60, § 5, eff. March 25, 1971

45:1-2.1. Professional boards and commissions; application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, and the State Board of Public Movers and Warehousemen.¹

¹Abolition of State Board of Public Movers and Warehousemen and transfer of functions, powers and duties to the Division of consumer Affairs. See Reorganization Plan No. 008-1998, set out under § 45:14D-4.

45:1-2.2. Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action

- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
- b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions:

The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause.

No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act.

It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section.

Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c. 60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.
- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

45:1-2.3. Qualifications; rights and duties

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

45:1-2.4. Effect of act on term of member in office

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

45:1-2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places

With respect to the boards or commissions designated in section 1 of P.L.1971, c. 60 (C.45:1-2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties. Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.
- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.
- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15-6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

45:1-2.6. Inapplicability of act to rights under civil service or any pension law or retirement system

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service, or any pension law or retirement system.

45:1-3. Expenses of boards paid from income; surplus paid to state treasurer; accounts

Each member of the boards mentioned in section 45:1-2¹ of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

¹Repealed; see, now, §§ 45:1-2.1, 45:1-2.2.

45:1-3.1. Application of act

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, and the State Board of Social Work Examiners.

45:1-3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act¹ may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1).

Any board's or commission's charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

¹N.J.S.A. § 45:1-3.1.

45:1-3.3. Administrative fees charged by boards; modifications

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L. 1968, c. 410 (C.52:14B-1 et seq.). For purposes of this section, “administrative fees” are charges assessed to licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

45:1-4. Salary of secretary

The secretary of each of the boards mentioned in section 45:1-2¹ of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

¹Repealed. See, now, §§ 45:1-2.1, 45:1-2.2.

45:1-5, 45:1-6. Repealed by L.1979, c. 432, § 4, eff. Feb. 14, 1980

45:1-7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors and certificates of registration issued to qualified journeymen electricians pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue.

The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

45:1-7.1. Application to holders of professional or occupational licenses

- a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c. 403 (C.45:1-7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1-15), who seeks renewal of that license or certificate.
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- b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c. 73 (C.45:1-15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.
- c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.
- d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.
- e. A board specified in section 2 of P.L. 1978, c. 73 (C. 45:1-15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.

45:1-7.2. Reinstatement

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c. 403 (C.45:1-7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

45:1-7.3. Renewal applications

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant
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electing to renew as inactive shall not engage in professional or occupational practice within the State.

- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable.

45:1-8. Contractors; application of § 45:1-9

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c. 100 (C. 13:1-28 et seq.¹);
- b. Home repair contractors, licensed pursuant to P.L.1960, c. 41 (C. 17:16C-62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c. 162 (C. 45:5A-1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C-1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c. 377 (C. 58:4A-5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

¹ Renumbered C. 45:15C-1 to 45:15C-10.

45:1-9. Indication of license or certificate number on contracts, bids and advertisements

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

45:1-10. Disclosure of laboratory payments on bills to patients and third party payors

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

45:1-10.1. Claims for third party payment; licensed health care professional; responsibility for filing

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30-23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party

payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30-23).
 - b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30-23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.
- (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.
- (2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.
- c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c. 70 (C.39:6A-1 et seq.).
 - d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

45:1-11. Violations; penalty

Any person violating this act shall be guilty of a misdemeanor.

45:1-12. Podiatrist, optometrist or psychologist or professional service corporation; charge for completion of claim form for health insurance; fine; collection and enforcement

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

45:1-13. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000

45:1-14. Legislative findings and declarations; liberal construction of act

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

45:1-15. Boards and professions or occupations regulated by or through such boards; application of act

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech-Language Pathology Advisory Committee.

45:1-15.1. Rules and regulations

Consistent with their enabling acts, P.L.1978, c. 73 (C.45:1-14 et seq.) and the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B-1 et seq.), the boards and others set forth in section 2 of P.L.1978, c. 73 (C.45:1-15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

45:1-16. Definitions

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.¹

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

¹N.J.S.A. § 45:1-15.

45:1-17. Powers of Attorney General to implement act and administer law enforcement activities of boards

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.
 - b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.
 - c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.
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45:1-18. Investigative powers of boards, director or attorney general

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a practice or activity subject to an act or regulation administered by the board is conducted;
- d. Examine any goods, ware or item used in the rendition of a practice or activity subject to an act or regulation administered by the board;
- e. Examine any record, book, document, account or paper prepared or maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in practices subject to an act or regulation administered by the board. Nothing in this subsection shall require the notification or consent of the person to whom the record, book, account or paper pertains, unless otherwise required by law;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used, prepared or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in a practice or activity subject to an act or regulation administered by the board. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection; and
- g. Require any board licensee, permit holder or registered or certified person to submit to an assessment of skills to determine whether the board licensee, permit holder or registered or certified person can continue to practice with reasonable skill and safety.

In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and the board, director or Attorney General may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

45:1-19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

45:1-20. Compelling testimony or production of book, paper or document; immunity from prosecution

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

45:1-21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
 - b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
 - c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
 - d. Has engaged in repeated acts of negligence, malpractice or incompetence;
 - e. Has engaged in professional or occupational misconduct as may be determined by the board;
 - f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal
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activity shall be deemed a conviction;

- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c. 320 (C.17:33A-1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L.1983, c. 320 (C.17:33A-1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;
- n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
- o. Advertised fraudulently in any manner.

For purposes of this act:

"Completed application" means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D-101), for the class or category of permit for which application is made.

"Permit" has the same meaning as defined in section 1 of P.L.1991, c. 421 (C.13:1D-101).

- 45:1-21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records
- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c. 418 (C. 13:1D-110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c. 418 (C. 13:1D-110) regarding compli-
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ance with the department's requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c. 419 (C. 13:1D-117).

- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c. 46 (C. 45:1-3.2).
- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c. 73 (C. 47:1A-1 et seq.).

45:1-21.2. Suspension of certain licenses; hearing

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

45:1-22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpena

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
 - b. Assess civil penalties in accordance with this act;
 - c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
 - d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;
 - e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions;
 - f. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to any medical or
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diagnostic testing and monitoring or psychological evaluation which may be required to evaluate whether continued practice may jeopardize the safety and welfare of the public;

- g. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to take and successfully complete educational training determined by the board to be necessary;
- h. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to submit to any supervision, monitoring or limitation on practice determined by the board to be necessary.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety.

In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

45:1-23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

45:1-24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of

such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order.

An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58-1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

45:1-25. Violations; civil penalty; action to collect or enforce

- a. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:
 - (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
 - (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
 - (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.
 - b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58-10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.
 - c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court.
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- d. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

45:1-26. Repeal of inconsistent acts and parts of acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

45:1-27. Severability

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

ENGINEERS, PROF., AND LAND SURVEYORS

CHAPTER 8

45:8-61. Short title; home inspection professional licensing act

This act shall be known and may be cited as the “Home Inspection Professional Licensing Act.”

45:8-62. Definitions relating to home inspectors

As used in this act:

“Associate home inspector” means a person who is employed by a licensed home inspector to conduct a home inspection of a residential building under the direct supervision of the licensed home inspector and is licensed pursuant to the provisions of this act.

“Board” means the State Board of Professional Engineers and Land Surveyors.

“Client means any person who engages, or seeks to engage, the services of a home inspector for the purpose of obtaining inspection of and written report upon the condition of a residential building.

“Committee” means the Home Inspection Advisory Committee established pursuant to section 3 of this act.¹

“Home inspector” means any person licensed as a home inspector pursuant to the provisions of this act.

“Home inspection” means an inspection and written evaluation of the following components of a residential building: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components or any other related residential housing component as determined by the board by regulation.

“Residential building” means a structure consisting of from one to four family dwelling units that has been occupied as such prior to the time when a home inspection is requested or contracted for in accordance with this act, but shall not include any such structure newly constructed and not previously occupied.

¹ N.J.S.A. § 45:8-63.

45:8-63. Home Inspection Advisory Committee; creation; membership

- a. There is created within the Division of Consumer Affairs in the Department of Law and Public Safety, under the State Board of Professional Engineers and Land Surveyors, a Home Inspection Advisory Committee. The committee shall consist of five members who are residents of the State and are licensed home inspectors who have been actively engaged in the practice of home inspection in this State for at least five years immediately preceding their appointment.
 - b. For a period of one year after the effective date of this act, and notwithstanding any other provisions of this act to the contrary, the first five home inspectors appointed as members of the committee shall not be required, at the time of their first appointment, to be licensed to practice home inspection.
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- c. The Governor shall appoint each committee member for a term of three years, except that of the members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and one shall serve for a term of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the committee shall be filled for the unexpired term in the manner provided for the original appointment. No member of the committee may serve more than two successive terms in addition to any unexpired term to which he has been appointed.

45:8-64. Compensation of home inspection advisory committee members

Members of the committee shall be compensated and reimbursed for expenses and provided with office and meeting facilities and personnel required for the proper conduct of the committee's business.

45:8-65. Election of home inspection advisory committee officers; meetings

The committee shall annually elect from among its members a chairman and a vice-chairman and may appoint a secretary, who need not be a member of the committee. The committee shall meet at least twice a year and may hold additional meetings as necessary to discharge its duties.

45:8-66. Powers and duties of home inspection advisory committee

The committee shall have the following powers and duties:

- a. Administer and enforce the provisions of this act;
- b. Issue and renew licenses to home inspectors and associate home inspectors pursuant to the provisions of this act;
- c. Suspend, revoke or fail to renew the license of a home inspector or an associate home inspector pursuant to the provisions of P.L.1978, c. 73 (C.45:1-14 et seq.);
- d. Establish standards for the continuing education of home inspectors;
- e. Adopt and publish a code of ethics and standards of practice for licensed home inspectors; and
- f. Prescribe or change the charges for examinations, licensures, renewals and other services performed pursuant to P.L.1974, c. 46 (C.45:1-3.1 et seq.).

45:8-67. Licensure as home inspector required

No person shall provide, nor present, call or represent himself as able to provide a home inspection for compensation unless licensed in accordance with the provisions of this act.

45:8-68. Eligibility for licensure as home inspector

To be eligible for licensure as a home inspector, an applicant shall fulfill the following requirements:

- a. Be of good moral character;
- b. Have successfully completed high school or its equivalent;
- c. Have been engaged as a licensed associate home inspector for no less than one year, and have performed not less than 250 home inspections for compensation; and
- d. Have passed the examination offered by the American Society of Home Inspectors (ASHI). The examination may have been passed before the effective date of this act.

45:8-69. Requirements for licensure as home inspector

To be eligible for licensure as an associate home inspector, an applicant shall fulfill the following requirements:

- a. Be of good moral character;
- b. Have successfully completed high school or its equivalent;
- c. Have passed an approved course of study, as prescribed by the board;
- d. Have performed not less than 50 home inspections in the presence of a licensed home inspector; and
- e. Have passed the examination offered by the American Society of Home Inspectors (ASHI). The examination may have been passed before the effective date of this act.

45:8-70. Persons and activities not covered by this act

The provisions of this act shall not apply to:

- a. Any person who is employed as a code enforcement official by the State or a political subdivision thereof when acting within the scope of that government employment;
 - b. Any person regulated by the State as an architect, professional engineer, electrical contractor or master plumber, who is acting within the scope of practice of his profession or occupation;
 - c. Any real estate broker, broker-salesperson, or salesperson who is licensed by the State when acting within the scope of his profession;
 - d. Any State licensed real estate appraiser or certified general or residential real estate appraiser, who is acting within the scope of his profession;
 - e. Any person regulated by the State as an insurance adjuster, who is acting within the scope of his profession;
 - f. Any person certified or registered as a pesticide applicator pursuant to subchapter 6 or 8 of chapter 30 of Title 7 of the New Jersey Administrative Code who is acting within the scope of the practice for which he
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is certified or registered; or

- g. Any person making home inspections under the supervision of a licensed home inspector for the purpose of meeting the requirements of subsection d. of section 9 of this act¹ to qualify for licensure as an associate home inspector.

¹N.J.S.A. § 45:8-69.

45:8-71. Issuance of home inspector license

- a. Upon payment to the board of a fee and the submission of a written application provided by the board, the committee shall issue a home inspector license to any person who holds a valid license issued by another state or possession of the United States or the District of Columbia which has standards substantially equivalent to those of this State, as determined by the committee.
- b. Notwithstanding the requirements of section 8 of P.L.1997, c. 323 (C. 45:8-68), upon payment to the board of a fee and the submission of a written application provided by the board, the committee shall issue a home inspector license to any person who is: (1) a licensed professional engineer deemed qualified by the board, without examination, by training, education and experience; or (2) a licensed architect deemed qualified by the New Jersey State Board of Architects, without examination, by training, education and experience.

45:8-72. Licensure of practicing home inspectors

During the first 360 days after the effective date of this act, the committee shall issue to any individual upon application a home inspector license, provided that the applicant meets the requirements of subsections a., b., and d. of section 8 of this act¹ and has been engaged in the practice of home inspections for compensation for not less than three years prior to the effective date of this act and has performed not less than 300 home inspections for compensation.

¹N.J.S.A. § 45:8-68.

45:8-73. Fees for home inspection licensure

- a. The board shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services provided by the board or the committee pursuant to the provisions of this act. Licenses shall be issued for a period of two years and be biennially renewable, except that the board may, in order to stagger the expiration dates thereof, provide that those licenses first issued or renewed after the effective date of this act shall expire or become void on a date fixed by the board, not sooner than six months nor later than 29 months after the date of issue.
 - b. Fees shall be established, prescribed or changed by the committee to the extent necessary to defray all proper expenses incurred by the board or the committee, and any staff employed to administer this act, except that fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.
 - c. All fees and any fines imposed by the board shall be paid to the board and shall be forwarded to the State Treasurer and become part of the General Fund.
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45:8-74. Refusal to grant, suspension or revocation of home inspector license

In addition to the provisions of section 8 of P.L.1978, c. 73 (C.45:1-21), the committee may refuse to grant or may suspend or revoke a home inspector license or an associate home inspector license upon proof to the satisfaction of the committee that the holder thereof has:

- a. Disclosed any information concerning the results of the home inspection without the approval of a client or the client's representatives;
- b. Accepted compensation from more than one interested party for the same service without the consent of all interested parties;
- c. Accepted commissions or allowances, directly or indirectly, from other parties dealing with their client in connection with work for which the licensee is responsible; or
- d. Failed to disclose promptly to a client information about any business interest of the licensee which may affect the client in connection with the home inspection.

45:8-75. Practice of architecture or engineering prohibited

No person licensed as a home inspector pursuant to this act shall engage in the practice of architecture or the practice of professional engineering unless licensed therefor.

45:8-76. Certificate of errors and omissions policy required for home inspectors

- a. Every licensed home inspector and associate home inspector who is engaged in home inspection shall secure, maintain and file with the board proof of a certificate of an error and omissions policy, which shall be in a minimum amount of \$500,000 per occurrence.
- b. Every proof of an errors and omissions policy required to be filed with the board shall provide that cancellation or nonrenewal of the policy shall not be effective unless and until at least 10 days' notice of intention to cancel or nonrenew has been received in writing by the board.

45:8-77. Adoption of rules and regulations; home inspector licensure

The board, after consultation with the committee, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.

ADMINISTRATIVE CODE

CHAPTER 40

STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Subchapter 15

HOME INSPECTION ADVISORY COMMITTEE

13:40-15.1 Purpose; scope; applicability

- (a) The purpose of the rules in this subchapter is to implement P.L. 1997, c.323 (N.J.S.A. 45:8-61 et seq.), the Home Inspection Professional Licensing Act.
 - (b) This subchapter shall apply to all persons licensed as home inspectors or associate home inspectors by the State of New Jersey and applicants for such licensure, performing home inspections of residential buildings with four or fewer dwelling units and other related residential housing components.
 - (c) After May 29, 2003, no person shall perform or hold oneself out as permitted to perform a home inspection nor represent or call oneself a home inspector unless licensed pursuant to N.J.A.C. 13:40-15.5 or 15.6.
 - (d) This subchapter shall not apply to:
 - 1. Any person who is employed as a code enforcement official by the State or a political subdivision thereof when acting within the scope of that government employment;
 - 2. Any person licensed by the State as an architect, professional engineer, electrical contractor or master plumber, who is acting within the scope of practice of his or her profession or occupation;
 - 3. Any real estate broker, broker-salesperson, or salesperson who is licensed by the State when acting within the scope of his or her profession;
 - 4. Any person regulated by the State as an insurance adjuster, who is acting within the scope of his or her profession;
 - 5. Any State licensed real estate appraiser or certified general or residential real estate appraiser, who is acting within the scope of that profession;
 - 6. Any person certified or registered as a pesticide applicator pursuant to N.J.A.C. 7:30-6 or 8, who is acting within the scope of the practice for which certification has been issued;
 - 7. Any person performing home inspections under the on-site supervision of a licensed home inspector for the purpose of meeting the associate home inspector requirements of N.J.A.C. 13:40-15.5(a)4.
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13:40-15.2 Definitions

The following terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

“Accessible” means available for visual inspection without requiring the moving of personal property, dismantling, destructive measures, or any action which will likely involve risk to persons or property.

“Act” means the Home Inspection Professional Licensing Act, N.J.S.A. 45:8-61 et seq.

“Acting within the scope of practice of a profession or occupation” means performing those specific duties for which certification, registration or licensure by a board, committee, commission, or agency of the State or Federal government is necessary and has in fact been granted to an individual.

“Additional inspection services” does not encompass repairs or improvements.

“Additional inspection services” means:

1. Tests performed by a home inspector or associate home inspector which are not part of a home inspection but which, in the opinion of the home inspector or associate home inspector, are warranted or which the client requests. Such tests include, but are not limited to, radon, asbestos, lead paint, carbon monoxide or urea-formaldehyde testing. Such testing may be performed providing the home inspector or associate home inspector has the relevant experience, education, training and/or licensing and/or certification to perform such additional tests as set forth in N.J.A.C. 13:40-15.22;
2. Inspecting systems and components which the home inspector or associate home inspector is not required to, but is not prohibited from, inspecting pursuant to the standards of practice, N.J.A.C. 13:40-15.16;
3. Inspecting systems and components which are not part of the home inspection but which the home inspector or associate home inspector may inspect if experienced, educated, trained, certified, registered or licensed as set forth in N.J.A.C. 13:40-15.22; and
4. Engineering and architectural services which are necessitated as a result of a home inspection.

“Additional inspection services” does not encompass repairs or improvements.

“Associate home inspector” means a person who is employed by a licensed home inspector to conduct a home inspection of a residential building under the regular and effective, direct supervision of a licensed home inspector and is licensed pursuant to the provisions of N.J.S.A. 45:8-62 et seq.

“Board” means the State Board of Professional Engineers and Land Surveyors.

“Client” means any current or prospective homeowner who engages, or seeks to engage, the services of a home inspector for the purpose of obtaining an inspection of and written report regarding the condition of a residential building.

“Client’s representative” means an attorney at law of the State of New Jersey who has been retained by the

client and identified to the home inspector in writing. For the purposes of this subchapter, a real estate broker or agent is not the client's representative.

“Committee” means the Home Inspection Advisory Committee established pursuant to N.J.S.A. 45:8-63.

“Component” means a part which, together with other parts, make up a system.

“Continuing education unit” means an hour of an educational activity in which a minimum of 50 minutes of the hour comprises active instruction or learning.

“Decorative” means ornamental, and not required for the operation of the systems and components of a residential building.

“Describe” means to report in writing a system or component by its type or other observed significant characteristics to distinguish it from other systems or components.

“Direct, on-site supervision” means that a licensed home inspector is physically present at and monitors the entire home inspection and prepares and signs the home inspection report.

“Exterior surfaces” means exterior cladding or siding, flashing, trim, eaves, soffits and/or fascia.

“Functional drainage” means the drainage of a plumbing fixture sufficient to prevent fixture overflow during normal usage.

“Functional water flow” means the delivery of a quantity of water at flow and pressure sufficient to use a fixture for its intended purpose.

“Home inspection” means a visual, functional, non-invasive inspection conducted without moving personal property, furniture, equipment, plants, soil, snow, ice, or debris, using the mandatory equipment and including the preparation of a home inspection report of the readily-accessible elements of the following components of a residential building: structural components, exterior components, roofing system, plumbing system, electrical system, heating system, cooling system, interior components, insulation components and

ventilation system, fireplaces and solid fuel burning appliances, or any other related residential housing component as determined by the Board, in consultation with the Committee, by rule, but excluding recreational facilities and outbuildings other than garages or carports.

“Home inspection report” means a written report prepared by a home inspector or associate home inspector which:

1. Discloses those systems and components which are designated for inspection pursuant to this subchapter and are present at the time of the inspection, as well as those which are present at the time of the home inspection but are not inspected and the reason(s) they are not inspected;
 2. Describes systems and components as specified in this subchapter;
 3. States what material defects are found in systems or components;
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4. States the significance of findings; and
5. Provides recommendations regarding the need to repair, replace or monitor a system or component, or to obtain examination and analysis by a qualified professional, tradesman or service technician.

“Home inspection training report” means a written report prepared by a trainee pursuant to N.J.A.C. 13:40-15.5(a)4, which:

1. Discloses those systems and components which are designated for inspection pursuant to this subchapter and are present at the time of the inspection, as well as those which are present at the time of the home inspection but are not inspected and the reason(s) they are not inspected;
2. Describes systems and components as specified in the rules of this subchapter;
3. States what material defects are found in systems or components;
4. States the significance of findings; and
5. Provides recommendations as to the need to repair, replace or monitor a system or component, or to obtain examination and analysis by a qualified professional, tradesman or service technician.

“Home inspector” means any person licensed as a home inspector pursuant to N.J.S.A. 45:8-62 et seq. and this subchapter who practices as a home inspector and inspects the condition of a residential building on behalf of a client for which the client is charged a fee.

“Inspect” means to visually examine any readily accessible system or component of a building, including viewing the interior of readily openable access panels, and operating building systems using normal operating controls in accordance with this subchapter.

“Installed” means affixed apparatus or component of a system that is permanently integrated in a residential building.

“Licensee” means a home inspector or associate home inspector licensed by the Committee and subject to this subchapter.

“Material defect” means a condition, or functional aspect, of a structural component or system that is readily ascertainable during a home inspection that substantially affects the value, habitability or safety of the dwelling, but does not include decorative, stylistic, cosmetic, or aesthetic aspects of the system, structure or component.

“Normal operating controls” means devices such as thermostats, switches or valves intended to be operated by the homeowner in the ordinary use of a system component or appliance.

“Other related residential housing component” means an attached or detached garage or carport unless that garage or carport contains a residence separate from the primary residential building.

“Person” means any natural person, limited or general partnership, association, corporation, or other legal entity, or any combination thereof.

“Readily openable access panel” means a panel provided for inspection and maintenance that is within normal reach, can be removed by one person, and is not sealed in place.

“Recreational facilities” means spas, saunas, steam baths, swimming pools, exercise, entertainment, athletic, playground or other similar equipment and associated accessories.

“Regular and effective, direct supervision” means that a licensed home inspector need not be physically present during a home inspection but is accessible to the associate home inspector during the course of the inspection.

“Residential building” means a structure consisting of from one to four family dwelling units and their garages or carports, unless such garage or carport contains a separate dwelling unit but excluding the common elements and areas in multiple unit housing such as condominiums and cooperative housing; that has been occupied as such prior to the time when a home inspection is requested or contracted for in accordance with the Act and this subchapter, but does not include any such structure newly constructed and not previously occupied.

“Significance of findings” means an explanation of the reason the home inspector or associate home inspector reported that a system or component designated for inspection pursuant to this subchapter contained a material defect, for the purpose of advising the client of the need for appropriate action.

“Structural component” means an integral part of a residential building, including the masonry structure and foundation, that supports non-variable forces or weights, that is, dead loads, and variable forces or weights, that is, live loads.

“System” means a combination of interacting or interdependent components, assembled to carry out one or more functions.

“Trainee” means any person who performs a home inspection under the direct, on-site supervision of a licensed home inspector pursuant to the provisions of N.J.A.C. 13:40-15.5.

“Unsafe” means a condition of a readily accessible, installed component or system caused by obsolescence, damage, deterioration, improper installation or inherent defects which presents a significant risk of injury or property damage under normal, day-to-day operation.

“Under-floor crawl space” means the area within the confines of the foundation and between the ground and the underside of the floor.

13:40-15.3 Office of the Committee

The office of the Committee shall be maintained with the Board at 124 Halsey Street, Newark, New Jersey. The mailing address of the Committee is PO Box 45043, Newark, New Jersey 07101.

13:40-15.4 Requirements for initial licensure as home inspector (grandfathering)

(a) Pursuant to N.J.S.A. 45:8-72, by May 29, 2003, persons may apply for licensure as a home inspector by completing and submitting to the Committee an application which will require information that the applicant:

1. Is of good moral character;
2. Has successfully completed high school or its equivalent;
3. Has, as of December 31, 1999, passed the examination offered by the American Society of Home Inspectors (ASHI) or has, since January 1, 2000, passed the National Home Inspection Examination administered by the Examination Board of Professional Home Inspectors (EBPHI);
4. Has practiced as a home inspector for at least three years prior to June 3, 2002 performing home inspections for which the client was charged a fee;
5. Has performed at least 300 home inspections as defined in N.J.A.C. 13:40-15.2 on or before June 3, 2002, for which the client was charged a fee; and
6. Maintains an errors and omissions insurance policy in the minimum amount of \$500,000 per occurrence.

(b) An applicant for licensure under this section shall:

1. Pay an application fee as set forth in N.J.A.C. 13:40-15.23;
2. Submit copies of income tax returns, business incorporation papers or similar documentation to verify that the applicant was in the business of performing home inspections for at least three years prior to June 3, 2002; and
3. Submit a list of 300 home inspections completed for compensation by June 3, 2002.

(c) The Committee shall randomly audit applications to verify that applicants for licensure as a home inspector under this section performed at least 300 home inspections as required by (a)5 above. Applicants that are audited shall submit copies of home inspection reports as requested by the Committee.

(d) Pursuant to N.J.S.A. 45:1-21 and N.J.A.C. 13:40-15.20, the Committee may deny, refuse to renew, temporarily suspend or revoke a license, or impose a civil penalty, upon proof that an applicant has obtained a license under this section through fraud, deception or misrepresentation.

13:40-15.5 Requirements for licensure as associate home inspector

(a) An applicant for licensure as an associate home inspector shall complete and submit to the Committee an application which will require information that the applicant:

1. Is of good moral character;
 2. Has successfully completed high school or its equivalent;
 3. Has successfully completed a home inspector course of study at a school approved by the New Jersey Department of Education;
 4. Has performed at least 50 home inspections, including preparation of 50 home inspection training reports,
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as defined in N.J.A.C. 13:40-15.2, under the direct, on-site supervision of a licensed home inspector;

5. Has, as of December 31, 1999, passed the examination offered by the American Society of Home Inspectors (ASHI) or has, since January 1, 2000, passed the National Home Inspector Examination administered by the Examination Board of Professional Home Inspectors (EBPHI);
 6. Maintain an errors and omissions insurance policy in the minimum amount of \$500,000 per occurrence; and
 7. Pay an application fee as set forth in N.J.A.C. 13:40-15.23.
- (b) An applicant for licensure as an associate home inspector under this section shall retain copies of all home inspection training reports for a period of five years upon completion of the report.
- (c) The Committee shall randomly audit applications to verify that applicants for licensure as an associate home inspector under this section performed at least 50 home inspections as required by (a)4 above. Applicants that are audited shall submit copies of home inspection training reports as requested by the Committee.

13:40-15.6 Requirements for initial licensure as home inspector

- (a) An applicant for licensure as a home inspector shall complete and submit to the Committee an application which will require information that the applicant:
1. Is of good moral character;
 2. Has successfully completed high school or its equivalent;
 3. Has successfully completed at least one year as a licensed associate home inspector as set forth in N.J.A.C. 13:40-15.5;
 4. Has performed at least 250 home inspections as defined in N.J.A.C. 13:40-15.2 as a licensed associate home inspector while employed by and subject to the regular and effective, direct supervision of a licensed home inspector for which the client was charged a fee;
 5. Shall secure and maintain an errors and omissions insurance policy in the minimum amount of \$500,000 per occurrence; and
 6. Pay an application fee as set forth in N.J.A.C. 13:40-15.23.
- (b) The Committee shall randomly audit applications to verify that applicants for licensure as a home inspector under this section performed at least 250 home inspections as required by (a)4 above. Applicants that are audited shall submit copies of home inspection reports as requested by the Committee.
- (c) Pursuant to N.J.S.A. 45:1-21 and N.J.A.C. 13:40-15.20, the Committee may deny, refuse to renew, temporarily suspend or revoke a license, or issue a civil penalty, upon proof that an applicant has obtained a license through fraud, deception or misrepresentation.
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13:40-15.7 Supervision of associate home inspectors

All associate home inspectors who are employed by a licensed home inspector shall be under the regular and effective, direct supervision of a licensed home inspector. A licensed home inspector need not be physically present during a home inspection but shall be accessible in the event questions arise, shall consult with the associate home inspector after each inspection to discuss any conclusions drawn from the inspection and shall review and co-sign the resulting home inspection report that is prepared by the associate home inspector.

13:40-15.8 Insurance requirement

- (a) All licensed home inspectors and associate home inspectors engaged in the profession of home inspection shall maintain an errors and omissions insurance policy in the minimum amount of \$500,000 per occurrence and file proof of the policy with the Committee.
- (b) Every proof of an errors and omissions policy required to be filed with the Committee shall provide that cancellation or nonrenewal of the policy shall not be effective unless and until the Committee has received at least 10 days written notice of intention to cancel or nonrenew.
- (c) Both the home inspector or the associate home inspector and the insurance company shall provide written notification to the Committee at least 10 days prior to the discontinuation of the errors and omissions policy.

13:40-15.9 Identification cards

- (a) All licensed home inspectors and associate home inspectors shall, during the performance of a home inspection, carry an identification card issued by the Committee. The identification card shall contain the name, photograph, license number and signature of the person to whom the identification card has been issued.
- (b) Identification cards shall not be transferable. A duplicate identification card to replace one lost or destroyed may be issued upon notice to the Committee and payment of a fee as established by rule by the Division.

13:40-15.10 License renewal

- (a) All licenses issued by the Committee shall be issued for a two year period. A licensee who seeks renewal of the license shall submit a license renewal application and the license renewal fee set forth in N.J.A.C. 13:40-15.23 to the Committee prior to the expiration of the license.
 - (b) Renewal applications shall provide the applicant with the option of either active or inactive status. A licensee electing inactive status shall pay the inactive license fee as set forth in N.J.A.C. 13:40-15.23 and shall not engage in the practice of home inspection.
 - (c) If the licensee does not renew the license prior to its expiration date, the licensee may renew it within 30 days of its expiration by submitting a renewal application, a license renewal fee and a late fee, as set forth in N.J.A.C. 13:40-15.23.
 - (d) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice.
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13:40-15.11 Change of license status: inactive to active

- (a) A licensee, upon application to the Committee, may change from inactive to active status upon payment of the renewal fee as set forth in N.J.A.C. 13:40-15.23 and submission of evidence of having completed the following:
1. Forty units of Committee-approved continuing education within the two year period preceding the application for reinstatement if the license has been inactive for a period of two years or less;
 2. Sixty units of Committee-approved continuing education within the three year period immediately preceding the application for reinstatement or the course of study as required by N.J.A.C. 13:40-15.5(a)3 within one year immediately preceding the application for reinstatement if the license has been inactive for a period of more than two and less than five years; or
 3. The course of study as required by N.J.A.C. 13:40-15.5(a)3 within one year immediately preceding the application for reinstatement if the license has been inactive for a period of five or more years.

13:40-15.12 Reinstatement of suspended license

- (a) An individual whose license has been suspended for nonpayment of a biennial renewal fee may be reinstated by the Committee, provided the applicant otherwise qualifies for licensure pursuant to N.J.S.A. 45:8-68 or 69 and N.J.A.C. 13:40-15.5 or 15.6, and submits one of the following to the Board:
1. A certification or licensure in good standing from any other state or jurisdiction in which the applicant has practiced as a home inspector or associate home inspector during the period the license was suspended in this State;
 2. An affidavit by the applicant stating that he or she has practiced as a home inspector or associate home inspector in a state or jurisdiction which does not require certification or licensure, during the period the license was suspended in this State; or
 3. An affidavit stating that the applicant has not practiced as a home inspector or associate home inspector, in this or any other jurisdiction during the period the license was suspended in this State.
- (b) An applicant who has practiced as a home inspector or an associate home inspector in the manner described in (a)1 or 2 above shall submit written verification, on a form provided by the Committee, from all of the applicant's employers. The verification shall document dates of employment from the date the New Jersey license was suspended to the date of application for reinstatement, and the name, address and telephone number of each employer.
- (c) An applicant who has been practicing as a home inspector or associate home inspector in any manner described in (a)1 or 2 above during the period the license was suspended in this State shall submit proof that he or she has completed a minimum of 40 Committee-approved continuing education units pursuant to N.J.A.C. 13:40-15.13 in the two year period immediately prior to application for reinstatement.
- (d) An applicant who has not practiced as a home inspector or associate home inspector during the period the license was suspended in this State shall meet the following requirements as a condition of reinstatement:
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1. An individual whose license has been suspended for a period of two years or less shall complete 40 units of Committee-approved continuing education within the two year period preceding reinstatement;
 2. An individual whose license has been suspended for a period of more than two and less than five years shall complete 60 units of Committee-approved continuing education within the three year period immediately preceding reinstatement or successfully complete the course of study as required by N.J.A.C. 13:40-15.5(a)3 within one year immediately preceding reinstatement; or
 3. An individual whose license has been suspended for a period of five or more years shall retake and pass the Home Inspector Examination administered by the Examination Board of Professional Home Inspectors (EBPHI) prior to reinstatement.
- (e) Prior to reinstatement, an applicant shall pay a reinstatement fee and all past delinquent biennial renewal fees pursuant to N.J.A.C. 13:40-15.23.

13:40-15.13 Change of address provision; service of process

- (a) A licensed home inspector or licensed associate home inspector shall notify the Committee in writing of any change of address from that registered with the Committee and shown on the most recently issued certificate. Such notice shall be sent to the Committee by certified mail, return receipt requested, not later than 30 days following the change of address. Failure to notify the Board of any change of address may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).
- (b) Service of an administrative complaint or other Committee-initiated action at a licensee's address which is on file with the Committee shall be deemed adequate notice for the purposes of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.
- (c) A license shall, within 30 days of receiving notice of disciplinary action taken against the licensee in any state, territory or jurisdiction, report to the Committee in writing of such notification and provide a copy of the notification and the underlying documentation of the disciplinary action.

13:40-15.14 Continuing education requirements

- (a) The Committee shall not issue a license renewal for any biennial registration period commencing after June 3, 2002 unless the applicant attests, when submitting the renewal application sent by the Committee, that he or she has completed courses of continuing professional education of the types and number of units specified in (b), (c) and (d) below. Falsification of any information submitted with the renewal application may result in penalties and/or suspension of the license pursuant to N.J.S.A. 45:1-21 through 25 and N.J.A.C. 13:40-15.20.
 - (b) Continuing education unit requirements for biennial license renewal are as follows:
 1. Each home inspector shall be required to complete during the preceding biennial period a minimum of 40 units of continuing education in courses and programs as provided in (c) and (d) below.
 2. Persons receiving initial licensure as home inspectors shall complete continuing education requirements prorated as follows:
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- i. Any person receiving initial licensure as a home inspector in the first year of a biennial registration period shall complete a minimum of 40 continuing education units before the end of that biennial registration period; and
 - ii. Any person receiving initial licensure as a home inspector in the second year of a biennial registration period shall complete a minimum of 20 continuing education units before the end of that biennial registration period.
3. A licensee who completes more than the minimum continuing education units as set forth in (b)1 above in any biennial registration period may carryover no more than 10 of the additional units into a succeeding biennial period, but only if the units were earned in the last six months of the preceding biennial period.
 4. Any continuing education units completed by the licensee in compliance with an order or directive from the Committee as set forth in (h) below may not be used to satisfy the minimum continuing education requirements as set forth in this section.
 5. A licensee on inactive status who seeks to reactivate his or her license shall submit to the Committee proof of successful completion of continuing education units as set forth in N.J.A.C. 13:40-15.10(a), (b) and (c) above, as applicable.

(c) A licensee may obtain continuing education units from the following:

1. Successful completion of continuing education courses or programs approved by the Committee pursuant to (g) below. The Committee shall maintain a list of all approved programs, courses and lecturers at the Board office and shall furnish this information to licensees upon request;
2. Participation in instructional activities such as developing curriculum for a new program or course and/or teaching a new program or course, provided the program or course is directly related to the practice of home inspection in the State of New Jersey. "New" means that the licensee has never taught or developed curriculum for that course or program in any educational setting;
3. Authorship of a textbook or manual directly related to the practice of home inspection in the State of New Jersey, provided the textbook or manual, as published, is at least 7,500 words in length; and
4. Authorship of a published article related to the practice of home inspection in the State of New Jersey, provided the article, as published, is at least 250 words in length.

(d) Credit for continuing education shall be granted as follows for each biennial registration period:

1. Attendance at continuing education programs approved by the Committee: one unit for each hour of attendance at an approved course. Credit shall not be granted for courses that are less than one instructional hour long. Completion of an entire course or segment of course instruction shall be required in order to receive any continuing education units;
 2. Attendance at courses approved by the Committee: one unit for each hour of attendance at an approved course. Credit shall not be granted for courses that are less than one instructional hour long. Completion of an entire course or segment of course instruction is required in order to receive any continuing education
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units;

3. Participation in instructional activities pursuant to (c)2 above: one unit per hour of program or course instruction to a maximum of 16 units per biennial registration period;
 4. Authorship of a textbook or manual pursuant to (c)3, above: 10 continuing education units per textbook or manual, to a maximum of 10 units per biennial registration period; and
 5. Authorship of a published article pursuant to (c)4, above: one continuing education unit per published article, to a maximum of 10 units per biennial registration period.
- (e) The Committee shall perform audits of randomly selected licensees to determine compliance with continuing education requirements. A licensee shall maintain the following documentation for a period of five years after completion of the continuing education units and shall submit such documentation to the Committee upon request:
1. Certificate of completion from sponsor...for attendance at courses or programs approved by the Committee;
 2. The published item...for publication of manual, textbook, or article; and
 3. Documentation, including copy of curriculum, location, date and time of course, duration of course by hour, and letter from sponsor, confirming that the licensee developed or taught the course or program...for developing curriculum or teaching a course or program, including those for realtors and/or civic groups.
- (f) Waiver of the continuing education requirements may be granted as follows:
1. The Committee upon receipt of a request for waiver received at least 90 days prior to license renewal, may waive the continuing education requirements of this section on an individual basis for reasons of hardship, such as severe illness, disability, or military service; and
 2. A licensee seeking a waiver of the continuing education requirements shall apply to the Committee in writing which must be received at least 90 days prior to license renewal and set forth in specific detail the reasons for requesting the waiver. The licensee shall provide the Committee with such supplemental materials as will support the request for waiver.
- (g) All sponsors of continuing education courses or programs shall:
1. Obtain Committee approval prior to representing that any course, seminar, or program fulfills the requirements of this section;
 2. Submit for evaluation by the Committee, the following for each course, seminar or program offered:
 - i. A detailed description of course content and estimated hours of instruction; and
 - ii. The curriculum vitae of each lecturer, including specific background which qualifies the individual as a lecturer of repute in the area of instruction;
 3. Monitor the attendance at each approved course, seminar or program and furnish to each enrollee a verifica-
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tion of attendance, which shall include at least the following information:

- i. The title, date and location of course, seminar or program offering;
 - ii. The name and license number of attendee;
 - iii. The number of hours attended; and
 - iv. The name and signature of officer or responsible party;
4. Solicit course, seminar or program evaluations from both the participants and the instructors; and
 5. Submit a fee pursuant to N.J.A.C. 13:40-15.23 for each biennial period during which a course(s), seminar(s) or programs is offered.
- (h) The Committee shall approve only such continuing education courses and programs as are available and advertised on a reasonable nondiscriminatory basis to all persons practicing home inspecting in the State and are directly related to the practice of home inspection in the State of New Jersey.
- (i) The Committee may direct or order a licensee to complete continuing education units:
1. As part of a disciplinary or remedial measure; or
 2. To correct a deficiency in the licensee's continuing education requirements.

13:40-15.15 Pre-inspection agreements

- (a) A home inspector or associate home inspector shall send a pre-inspection agreement to a client or client's representative, by mail, facsimile, email or other means of delivery, no later than one business day after the appointment for the home inspection is made. The pre-inspection agreement shall be executed prior to the start of the home inspection. The pre-inspection agreement shall contain, at a minimum, the following information:
1. The price of the home inspection;
 2. A description of the systems and components which will be inspected as part of the home inspection as required pursuant to N.J.A.C. 13:40-15.16;
 3. A description of that which is not required as part of the home inspection pursuant to this subchapter;
 4. The full name and address of the client;
 5. The address of the home to be inspected;
 6. The date and time of the home inspection;
 7. A statement that home inspectors and associate home inspectors are governed by the rules in the New Jersey Administrative Code contained at N.J.A.C. 13:40-15 and that the licensee shall comply with these rules and failure to comply with the rules may subject the licensee to discipline; and
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8. A description of any additional inspection service(s), as defined in N.J.A.C. 13:40-15.2, for which the client is charged an additional fee(s) which are not part of the home inspection but may be performed pursuant to this subchapter.
- (b) The pre-inspection agreement shall indicate whether any systems or components are excluded from the home inspection at the request of the client.
- (c) The pre-inspection agreement shall indicate whether the home inspector or associate home inspector will return at a later date to inspect any systems or components which are not inspected because of unforeseen circumstances at the initial home inspection and whether any additional fee will be charged for such subsequent inspection, and the amount of such fee, if any.
- (d) A pre-inspection agreement shall be retained for a period of five years following the completion of the pre-inspection agreement.

13:40-15.16 Standards of practice

- (a) All home inspectors and associate home inspectors shall comply with the standards of practice contained in this section when conducting home inspections. The scope of home inspection services performed in compliance with the requirements set forth in this section shall provide the client with objective information regarding the condition of the systems and components of the home as determined at the time of the home inspection.
 - (b) Nothing in this section shall be construed to require a home inspector or associate home inspector to:
 1. Enter any area or perform any procedure which is, in the opinion of the home inspector or associate home inspector, unsafe and likely to be dangerous to the inspector or other persons;
 2. Enter any area or perform any procedure which will, in the opinion of the home inspector or associate home inspector, likely damage the property or its systems or components;
 3. Enter any area which does not have at least 24 inches of unobstructed vertical clearance and at least 30 inches of unobstructed horizontal clearance;
 4. Identify concealed conditions and latent defects;
 5. Determine life expectancy of any system or component;
 6. Determine the cause of any condition or deficiency;
 7. Determine future conditions that may occur including the failure of systems and components including consequential damage;
 8. Determine the operating costs of systems or components;
 9. Determine the suitability of the property for any specialized use;
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10. Determine compliance with codes, regulations and/or ordinances;
11. Determine market value of the property or its marketability;
12. Determine advisability of purchase of the property;
13. Determine the presence of any potentially hazardous plants, animals or diseases or the presence of any suspected hazardous substances or adverse conditions such as mold, fungus, toxins, carcinogens, noise, and contaminants in soil, water, and air;
14. Determine the effectiveness of any system installed or method utilized to control or remove suspected hazardous substances;
15. Operate any system or component which is shut down or otherwise inoperable;
16. Operate any system or component which does not respond to normal operating controls;
17. Operate shut-off valves;
18. Determine whether water supply and waste disposal systems are public or private;
19. Insert any tool, probe or testing device inside electrical panels;
20. Dismantle any electrical device or control other than to remove the covers of main and sub panels;
21. Walk on unfloored sections of attics; and
22. Light pilot flames or ignite or extinguish fires.

(c) Home inspectors and associate home inspectors shall:

1. Inspect the following systems and components in residential buildings and other related residential housing components:
 - i. Structural components as required by (e) below;
 - ii. Exterior components as required by (f) below;
 - iii. Roofing system components as required by (g) below;
 - iv. Plumbing system components as required by (h) below;
 - v. Electrical system components as required by (i) below;
 - vi. Heating system components as required by (j) below;
 - vii. Cooling system components as required by (k) below;
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- viii. Interior components as required by (l) below;
 - ix. Insulation components and ventilation system as required by (m) below; and
 - x. Fireplaces and solid fuel burning appliances as required by (n) below;
2. Prepare a home inspection report which shall:
- i. Disclose those systems and components as set forth in (c)1 above which were present at the time of inspection;
 - ii. Disclose systems and components as set forth in (c)1 above which were present at the time of the home inspection but were not inspected, and the reason(s) they were not inspected;
 - iii. Describe the systems and components specified in these standards of practice;
 - iv. State material defects found in systems or components;
 - v. State the significance of findings where any material defects in the systems and components of (c)1 above were found; and
 - vi. Provide recommendations where material defects were found to repair, replace or monitor a system or component or to obtain examination and analysis by a qualified professional, tradesman, or service technician without determining the methods, materials or cost of corrections; and
3. Retain copies of all home inspection reports prepared pursuant to (c)2 above, for a period of five years upon completion of the report;
- (d) Subsection (c) above is not intended to limit home inspectors or associate home inspectors from:
- 1. Inspecting or reporting observations and conditions observed in systems and components in addition to those required in (c)1 above and inspecting systems and components other than those mandated for inspection in (c)1 above as long as the inspection and reporting is based on the licensee's professional opinion, prior work experience, education and training, unless these standards of practice prohibit the home inspector or associate home inspector from inspecting such system or component;
 - 2. Contracting with the client to provide, for an additional fee additional inspection services provided the home inspector or associate home inspector is educated, trained, certified, registered or licensed, pursuant to the provisions of N.J.A.C. 13:40-15.22 and other applicable statutes and rules; and
 - 3. Excluding systems and components from the inspection if requested in writing by the client.
- (e) When conducting the inspection of the structural components, the home inspector or associate home inspector shall:
- 1. Inspect:
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- i. Foundation;
- ii. Floors;
- iii. Walls;
- iv. Ceilings; and
- v. Roof;

2. Describe:

- i. Foundation construction type and material;
- ii. Floor construction type and material;
- iii. Wall construction type and material;
- iv. Ceiling construction type and material; and
- v. Roof construction type and material;

- 3. Probe structural components where deterioration is suspected unless such probing would damage any finished surface; and
- 4. Describe in the home inspection report the methods used to inspect under-floor crawl spaces and attics.

(f) When conducting the inspection of the exterior components, a home inspector or associate home inspector shall:

1. Inspect:

- i. Exterior surfaces, excluding shutters, and screening, awnings, and other similar seasonal accessories;
 - ii. Exterior doors excluding storm doors or safety glazing;
 - iii. Windows excluding storm windows and safety glazing;
 - iv. Attached or adjacent decks, balconies, stoops, steps, porches, and their railings;
 - v. Vegetation, grading, drainage, and retaining walls with respect to their immediate detrimental effect on the condition of the residential building, excluding fences, geological and/or soil conditions, sea walls, break-walls, bulkheads and docks, or erosion control and earth stabilization;
 - vi. Attached or adjacent walkways, patios, and driveways; and
 - vii. Garage doors including automatic door openers and entrapment protection mechanisms, excluding remote control devices; and
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2. Describe exterior wall surface type and material.

(g) When inspecting the roof of a residential building, the home inspector or associate home inspector shall:

1. Inspect:
 - i. Roofing surface, excluding antennae and other installed accessories such as solar heating systems, lightning arresters, and satellite dishes;
 - ii. Roof drainage systems;
 - iii. Flashing;
 - iv. Skylights; and
 - v. Exterior of chimneys;
2. Describe:
 - i. Roof surface;
 - ii. Roof drainage systems;
 - iii. Flashing;
 - iv. Skylights; and
 - v. Chimneys;
3. Employ reasonable, practicable and safe methods to inspect the roof such as:
 - i. Walking on the roof;
 - ii. Observation from a ladder at roof level; or
 - iii. Visual examination with binoculars from ground level; and
4. Describe the methods used to inspect the roof.

(h) When inspecting the plumbing system, a home inspector or associate home inspector shall:

1. Inspect:
 - i. Interior water supply and distribution systems including functional water flow and functional drainage, excluding wells, well pumps, well water sampling or water storage related equipment, determination of water supply quantity or quality and water conditioning systems and lawn irrigation systems;
 - ii. All interior fixtures and faucets, excluding shut off valves, wells, well pumps, well water sampling and
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water storage related equipment;

iii. Drain, waste and vent systems;

iv. Domestic water heating systems, without operating safety valves or automatic safety controls, and excluding solar water heating systems;

v. Combustion vent systems excluding interiors of flues and chimneys;

vi. Fuel distribution systems; and

vii. Drainage sumps, sump pumps and related piping; and

2. Describe:

i. Predominant interior water supply and distribution piping materials;

ii. Predominant drain, waste and vent piping materials; and

iii. Water heating equipment including energy sources.

(i) When inspecting the electrical system, a home inspector or associate home inspect shall:

1. Inspect:

i. Service entrance system;

ii. Main disconnects, main panel and sub panels, including interior components of main panel and sub panels;

iii. Service grounding;

iv. Wiring, without measuring amperage, voltage or impedance, excluding any wiring not a part of the primary electrical power distribution system, such as central vacuum systems, remote control devices, telephone or cable system wiring, intercom systems, security systems and low voltage wiring systems;

v. Over-current protection devices and the compatibility of their ampacity with that of the connected wiring;

vi. At least one of each interior installed lighting fixture, switch, and receptacle per room and at least one exterior installed lighting fixture, switch, and receptacle per side of house; and

vii. Ground fault circuit interrupters; and

2. Describe:

i. Amperage and voltage rating of the service;

- ii. Location of main disconnect, main panels, and sub-panels;
- iii. Type of over-current protection devices;
- iv. Predominant type of wiring;
- v. Presence of knob and tube branch circuit wiring; and
- vi. Presence of solid conductor aluminum branch circuit wiring.

(j) When inspecting the heating system, a home inspector or associate home inspector shall:

1. Inspect:

- i. Installed heating equipment and energy sources, without determining heat supply adequacy or distribution balance, and without operating automatic safety controls or operating heat pumps when weather conditions or other circumstances may cause damage to the pumps, and excluding humidifiers, electronic air filters and solar heating systems;
- ii. Combustion vent systems and chimneys, excluding interiors of flues or chimneys;
- iii. Fuel storage tanks, excluding propane and underground storage tanks; and
- iv. Visible and accessible portions of the heat exchanger, removing the flame roll-out shield if applicable; and

2. Describe:

- i. Heating equipment and distribution type; and
- ii. Energy sources.

(k) When inspecting the cooling system, a home inspector or associate home inspector shall:

1. Inspect:

- i. Central cooling system, excluding electronic air filters and excluding determination of cooling supply adequacy or distribution balance and without operating central cooling equipment when weather conditions or other circumstances may cause damage to the cooling equipment;
- ii. Permanently installed hard-wired, through-wall individual cooling systems; and
- iii. Energy sources; and

2. Describe:

- i. Cooling equipment and distribution type; and
 - ii. Energy sources.
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- (l) When inspecting the interior of a residential building, a home inspector or associate home inspector shall:
1. Inspect:
 - i. Walls, ceilings, and floors excluding paint, wallpaper and other finish treatments, carpeting and other non-permanent floor coverings;
 - ii. Steps, stairways, and railings;
 - iii. Installed kitchen wall cabinets to determine if secure;
 - iv. At least one interior passage door and operate one window per room excluding window treatments; and
 - v. Household appliances limited to:
 - (1) The kitchen range and oven to determine operation of burners or heating elements excluding microwave ovens and the operation of self-cleaning cycles and appliance timers and thermostats;
 - (2) Dishwasher to determine water supply and drainage; and
 - (3) Garbage disposer.
- (m) When inspecting the insulation components and ventilation system of a residential building, the home inspector or associate home inspector shall:
1. Inspect:
 - i. Insulation in unfinished spaces without disturbing insulation;
 - ii. Ventilation of attics and crawlspaces; and
 - iii. Mechanical ventilation systems; and
 2. Describe:
 - i. Insulation in unfinished spaces adjacent to heated areas; and
 - ii. Evidence of inadequate attic and crawlspace ventilation.
- (n) When inspecting fireplaces and solid fuel burning appliances, a home inspector or associate home inspector shall:
1. Inspect:
 - i. Fireplaces and solid fuel burning appliances, without testing draft characteristics, excluding fire screens and doors, seals and gaskets, automatic fuel feed devices, mantles and non-structural fireplace surrounds, combustion make-up air devices, or gravity fed and fan assisted heat distribution systems; and
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- ii. Chimneys and combustion vents excluding interiors of flues and chimneys; and
- 2. Describe:
 - i. Type of fireplaces and/or solid fuel burning appliances;
 - ii. Energy source; and
 - iii. Visible evidence of draft characteristics.

13:40-15.17 Mandatory tools and equipment

- (a) All home inspectors and associate home inspectors shall, during the performance of a home inspection, be equipped with the following minimum tools and equipment:
 - 1. A ladder, minimum 11 feet in length;
 - 2. A flashlight, or another equivalent light source, with a minimum 15,000 candlepower illumination;
 - 3. A flame inspection mirror;
 - 4. An electrical outlet tester with Ground Fault Circuit Interrupter (GFCI) test ability;
 - 5. Tools necessary to remove common fasteners on covers or panels which are required to be removed pursuant to this subchapter.
 - 6. A measuring tape;
 - 7. A probe;
 - 8. Thermometers for testing air conditioning;
 - 9. Binoculars with a magnification between 8X42 and 10X50;
 - 10. A moisture meter;
 - 11. Combustible gas leak detection equipment; and
 - 12. A voltage detector.
- (b) This section is not intended to establish an exclusive list of tools and equipment to be used during the performance of a home inspection. A home inspector or associate home inspector may utilize any other tools or equipment which in the licensee's professional judgment believes is necessary to adequately perform a home inspection.

13:40-15.18 Advertising; identification of licensee

(a) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:

“Advertisement” or “advertising” means an attempt, either directly or indirectly, by publication, dissemination, solicitation, endorsement or circulation in print or electronic media to induce a person to enter into an agreement to accept home inspection services.

“Electronic media” includes, but is not limited to, radio, television, telephone, facsimile machine, computer, and the Internet.

“Print media” means newspapers, magazines, periodicals, professional journals, telephone directories, circulars, handbills, fliers or other publications, the content of which is disseminated by means of the printed word.

(b) All radio and television advertising by a home inspector shall include the name and license number of the home inspector.

(c) All advertising by a home inspector, other than the advertising referred to in (b) above, shall include:

1. The name of the home inspector;
2. The words “Home Inspector License Number” or “Home Inspector Lic. #,” followed by the license number of the home inspector; and
3. The business address of the home inspector, including the street name and number. Post office box numbers shall not be used as a form of business address.

(d) All advertising records shall be retained for a period of five years from the date of the advertisement.

(e) A home inspector whose name, business address, or license number appears or is mentioned in any advertisement shall be presumed to have caused, permitted or approved the advertising and shall be personally responsible for its content.

(f) All commercial vehicles used by a home inspector or an associate home inspector shall be marked on both sides with the following information:

1. The name of the home inspector in lettering at least one inch in height;
 2. The words “Home Inspector License Number” or “Home Inspector Lic. #,” followed by the license number of the home inspector in lettering at least one inch in height; and
 3. The name of the owner or the lessee of the vehicle and the municipality from which the licensee practices or where the licensee has a principal office in lettering at least three inches in height.
 - i. Where available space for lettering is limited, either by design of the vehicle or by the presence of other legally specified identification markings, making strict compliance with (f)3 above impractical, the size of the lettering shall be as close to three inches high as is possible within the limited space, provided the information required is clearly visible and readily identifiable.
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- (g) All home inspectors and associate home inspectors who utilize a non-commercial vehicle during the performance of a home inspection shall display on the dashboard of the vehicle a placard issued by the Division which contains the name of the inspector, the inspector's license number and the name of the home inspection business.
- (h) All business correspondence and stationery, such as letterhead, business cards, pre-inspection agreements, and home inspection reports, of a home inspector shall display:
1. The name of the home inspector;
 2. The words "Home Inspector License Number" or "Home Inspector Lic. #," followed by the license number of the home inspector; and
 3. The business address of the home inspector, including the street name and number, of the home inspector. Post office box numbers shall not be used as a form of business address.

13:40-15.19 Prohibited practices

- (a) It is a prohibited practice for a home inspector or associate home inspector to do any of the following:
1. Perform or offer to perform, for an additional fee, any repairs to a structure on which the licensee or the licensee's company, has prepared a home inspection report;
 2. Inspect for a fee any property in which the licensee, or the licensee's company, has any financial interest or any interest in the transfer of the property;
 3. Offer or deliver any compensation, inducement, or reward to the owner of the inspected property, the broker, the agent or the client's representative, for the referral of any business to the licensee or the licensee's company;
 4. Offer or deliver any compensation, inducement, or reward to the client, the broker, the agent or the client's representative or homeowner, on behalf of a person or business entity;
 5. Accept an engagement to perform an inspection or prepare a home inspection report in which the employment itself or the fee payable for the inspection is contingent upon the conclusions of the report, preestablished findings, or the close of title;
 6. Provide a copy of the home inspection report or disclose any information concerning the results of the inspection without the written approval of the client or the client's representative except when the home inspector discovers a health or safety condition that would not be readily detectable by the occupant or homeowner and which poses an imminent risk of injury;
 7. Accept compensation, financial or otherwise, from more than one interested party for the same home inspection;
 8. Accept or offer commissions or allowances, directly or indirectly, from other parties dealing with the client in connection with work for which the licensee is responsible;
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9. Accept commissions from any other trade or profession for information concerning the condition of the property which is the subject of the home inspection;
 10. Fail to promptly disclose to the client information about any business interest of the licensee which may affect the client in connection with the home inspection;
 11. Allow an interest the licensee may have in any business to affect the quality of a home inspection;
 12. Use a home inspection as a means to obtain work in another field which is not an additional inspection service as defined by N.J.A.C. 13:40-15.2;
 13. Engage in the use of advertising which contains any statement, claim or format which is false, fraudulent, misleading or deceptive;
 14. Engage in advertising which promotes a professional service which is beyond the licensee's ability or authority to perform;
 15. Perform or represent that a licensee can perform a professional service which is beyond the licensee's ability or authority to perform;
 16. Perform, or offer to perform engineering or architectural services unless appropriately qualified pursuant to N.J.S.A. 45:3-1 et seq., N.J.S.A. 45:8-27 et seq., and other applicable laws and rules;
 17. Fail to inspect the systems and components required by the standards of practice as set forth in N.J.A.C. 13:40-15.16 without the written consent of the client;
 18. Employ any person as a home inspector or associate home inspector who is not licensed as a home inspector or associate home inspector;
 19. Fail to supervise an associate home inspector or a person who is training to be an associate home inspector;
 20. Practice as a home inspector or associate home inspector without a license, with a suspended license or during inactive status;
 21. Perform any act or omission involving dishonesty, fraud, or misrepresentation with the intent to benefit a licensee or other person or with the intent to substantially injure another person;
 22. Perform any act or omission involving dishonesty, fraud, or misrepresentation in the performance of a home inspection or preparation of a home inspection report;
 23. Pay a finder's fee or referral fee to any person in connection with a home inspection; or
 24. Fail or refuse, without good cause, to exercise diligence in preparing a home inspection report, delivering a report to the client, or responding to an inquiry from the client.
- (b) Engaging in any of the prohibited practices delineated in (a) above shall be considered professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) and may subject the licensee to the disciplinary
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provisions of N.J.A.C. 13:40-15.20.

13:40-15.20 Suspension, revocation or refusal to renew license

- (a) The Committee may, pursuant to N.J.S.A. 45:1-21 and this subchapter, deny, refuse to renew, or temporarily suspend or revoke a license, or issue a civil penalty, upon proof that an applicant or licensee:
1. Has obtained a license or license renewal through fraud, deception, or misrepresentation;
 2. Has engaged in dishonesty, fraud, deception, misrepresentation, false promise, or false pretense;
 3. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
 4. Has engaged in repeated acts of negligence, malpractice or incompetence;
 5. Has engaged in professional or occupational misconduct as outlined in N.J.A.C. 13:40-15.18 and 15.19;
 6. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the home inspection Committee. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
 7. Has had the authority to engage in home inspections revoked or suspended by any other state, agency or authority for reasons consistent with this section;
 8. Has violated or failed to comply with the provisions of any law or regulation administered by the Committee;
 9. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
 10. Has failed to report any violations of the Act and this subchapter by other licensees to the Committee;
 11. Is incapable, for medical or other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
 12. Has violated any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of the law as set forth in this section, or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
 13. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term "presently" means at this time or any time within the previous 365 days; or
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14. Advertised fraudulently in any manner.

- (b) In addition to the actions listed in (a) above, the Committee may impose additional or alternative penalties pursuant to N.J.S.A. 45:1-22 and 25 for violations of any provision of this subchapter.
- (c) The Committee may order a licensed home inspector or associate home inspector to complete continuing education units as all or part of the civil penalty imposed for disciplinary measures.
- (d) The denial, refusal to renew, or temporary suspension or revocation of a license, and/or the issuance of a civil penalty under this section, may be ordered by a decision of a majority of the Committee after an opportunity to be heard.
- (e) The licensee may apply to the Committee for reinstatement of a revoked license after the revocation has been in effect for at least one year. The reinstatement shall be granted upon an affirmative vote by a majority of the Committee.

13:40-15.21 Requirements for licensure as a home inspector or associate home inspector by comity

- (a) Any person with a valid registration, certification, or license issued by another state or possession of the United States or the District of Columbia may, upon the submission of an application provided by the Committee and payment of the fee in N.J.A.C. 13:40-15.23, be issued a license as a home inspector or associate home inspector, whichever applies to the applicant's experience at the time of application, provided that:
 - 1. The education, training, and examination requirements in such other jurisdiction are substantially equivalent to those required by the Committee at the time of application;
 - 2. The prior State licenses relied upon must be current, active, and in good standing; and
 - 3. The person secures and maintains an errors and omissions insurance policy, in the minimum amount of \$500,000 per occurrence.

13:40-15.22 Inspection services requiring additional experience, education, training, or license or certification

- (a) A licensed home inspector or licensed associate home inspector may perform the following additional inspection services if the licensee has the experience, education, training, license or certification indicated:
 - 1. Wells, well pumps, well water sampling or water storage related equipment: experience, education, training;
 - 2. Private waste disposal systems including on-site individual waste disposal systems septic systems and/or cesspools: license from Board of Professional Engineers or registered as an environmental health specialist;
 - 3. Installed or free-standing warning devices including, carbon monoxide detectors, flue gas and other spillage detectors: experience, education, training;
 - 4. Fire alarm systems, smoke detection systems, burglar alarm and security equipment: license from the Fire
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Alarm, Burglar Alarm and Locksmith Committee;

5. Presence of rodents, pests and/or insects of any kind: experience, education, training;
6. Presence of asbestos: license from Environmental Protection Agency;
7. Presence of lead paint: license from the Department of Health and Senior Services;
8. Presence of radon: license from the Department of Environmental Protection;
9. Presence of hazardous waste: experience, education, training; or
10. Inspections requiring specialized training or certification by a board, committee, commission or other agency of the State.

13:40-15.23 Fee schedule

(a) The Committee shall charge the following fees:

1. Application fee:
 - i. Home inspector \$125.00
 - ii. Associate home inspector 25.00
2. Initial license fee:
 - i. Home inspector 500.00
 - ii. Issued during the second year of a biennial renewal period 250.00
 - iii. Associate home inspector 350.00
 - iv. Issued during the second year of a biennial renewal period 175.00
3. Renewal license fee:
 - i. Home inspector 500.00
 - ii. Associate home inspector 350.00
 - iii. Inactive status (to be established by rule by the Director)
4. Late renewal fee \$50.00
5. Reinstatement fee \$125.00
6. Continuing education program sponsor review fee \$100.00

CHAPTER 45C UNIFORM REGULATIONS

SUBCHAPTER 1

LICENSEE DUTY TO COOPERATE AND TO COMPLY WITH BOARD ORDERS

13:45C-1.1 Applicability, scope and definitions

- (a) This subchapter shall apply to all licensees of any board, committee or sub-unit within the Division of Consumer Affairs.
- (b) For the purpose of this subchapter, “licensee” shall mean any licensee, permittee, certificate holder or registrant of:
 - 1. The Division of Consumer Affairs;
 - 2. Any professional or occupational licensing board within the Office of Professional/Occupational Boards and any committee, or other subunit of a board or committee located within the Division;
 - 3. The Office of Consumer Protection; or
 - 4. The Legalized Games of Chance Control Commission.

13:45C-1.2 Licensee’s duty to cooperate in investigative inquiries

- (a) A licensee shall cooperate in any inquiry, inspection or investigation conducted by, or on behalf of, a board, the Director or the licensee’s licensing agency into a licensee’s conduct, fitness or capacity to engage in a licensed profession or occupation where said inquiry is intended to evaluate such conduct, fitness or capacity for compliance with applicable statutory or regulatory provisions.
- (b) A licensee’s failure to cooperate, absent good cause or bona fide claim of a privilege not identified in N.J.A.C. 13:45C-1.5 as unavailable, may be deemed by the board, the Director, or the licensing agency to constitute professional or occupational misconduct within the meaning of N.J.S.A. 45:1-21(e) or the agency’s enabling act and thus subject a licensee to disciplinary action pursuant to N.J.S.A. 45:1-21(h) or the agency’s enabling act.

13:45C-1.3 Specific conduct deemed failure to cooperate

- (a) The following conduct by a licensee may be deemed a failure to cooperate and, therefore, professional or occupational misconduct and grounds for suspension or revocation of licensure:
 - 1. The failure to timely respond to an inquiry to provide information in response to a complaint received concerning licensee conduct;
 - 2. The failure to timely provide records related to licensee conduct;
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3. The failure to attend any scheduled proceeding at which the licensee's appearance is directed. In the event that a licensee elects to retain counsel for the purpose of representation in any such proceeding, it shall be the licensee's responsibility to do so in a timely fashion. The failure of a licensee to retain counsel, absent a showing of good cause therefor, shall not cause an adjournment of the proceeding;
4. The failure to timely respond or to provide information requested pursuant to a demand under N.J.S.A. 45:1-18 or other applicable law or to provide access to any premises from which a licensed profession or occupation is conducted. Included within this paragraph shall be the failure to respond to any demand for statement or report under oath, the failure to permit the examination of any goods, ware or item used in the rendition of the professional or occupational service and the failure to grant access to records, books or other documents utilized in the practice of the occupation or profession;
5. The failure to answer any question pertinent to inquiry made pursuant to N.J.S.A. 45:1-18 or other applicable law unless the response to said question is subject to a claim of privilege;
6. The failure to make proper and timely response by way of appearance or production of documents to any subpoena issued pursuant to N.J.S.A. 45:1-18 or as may otherwise be provided by law; or
7. The failure to provide to the Board, the Director or the licensing agency timely notice of any change of address from that which appears on the licensee's most recent license renewal or application.

13:45C-1.4 Failure to comply with Board orders as professional or occupational misconduct

The failure of a licensee to comply with an order duly entered and served upon the licensee or of which the licensee has knowledge shall be deemed professional or occupational misconduct.

13:45C-1.5 Unavailability of privileges in investigative or disciplinary proceedings

- (a) In any investigative inquiry conducted pursuant to N.J.S.A. 45:1-18 or in any disciplinary proceeding conducted pursuant to N.J.S.A. 45:1-21, or as may otherwise be authorized by law, the physician-patient privilege, psychologist-patient privilege, marriage and family therapist-client privilege, professional counselor-client privilege, associate counselor-client privilege, social worker-client privilege and the alcohol and drug counselor-client privilege shall be unavailable.
- (b) Any statements or records otherwise subject to a claim of the stated privileges which may be obtained by the Board, its agent or the Attorney General pursuant to N.J.S.A. 45:1-18 shall remain confidential and shall not be disclosed unless so ordered by a court of competent jurisdiction, the appropriate licensing board or the Office of Administrative Law in a contested case.

13:45C-1.6 Maintenance of and access to statements, records or other information that is subject to a privilege declared unavailable

- (a) Any statements, records or other information which may be subject to any privilege declared unavailable in this subchapter shall be maintained in a secure place and manner by:
 1. The evidence custodian within the Division of Consumer Affairs, Enforcement Bureau;
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2. The professional or occupational licensing board and the committee or other subunit of a board or committee located within the Division which has a direct connection with, or a need for access to, the matter to which the statements, records or other information pertain; or
 3. A Deputy Attorney General.
- (b) Except as may be otherwise ordered as provided in the subchapter, access to statements, records or other information shall be afforded only to employees of the Attorney General, the Enforcement Bureau, or the Board or other subunit of the Division having a direct connection with, or a need for access to, the matter to which the statement, records or other information pertain.
- (c) The statements, records or other information shall be retained only for the period of time during which an investigation remains open or until the completion of all administrative or judicial proceedings relating thereto, at which time they shall be returned to the licensee or other person from whom they were obtained. In the absence of such licensee or other person, the statements, records or other information shall be returned to the patient, where appropriate.
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